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9 Attorneys for Complainant

10 **BEFORE THE**
RESPIRATORY CARE BOARD
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 ALLAN H. UNDERHILL, R.C.P.
6922 River Run Court
15 Mira Loma, CA 91752

16 Respiratory Care Practitioner License No. 3980

17 Respondent.
18

Case No. R-2071

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
20 above-entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Stephanie Nunez (Complainant) is the Executive Officer of the
23 Respiratory Care Board of California. She brought this action solely in her official capacity and
24 is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of
25 California, by David P. Chan, Deputy Attorney General.

26 2. Allan H. Underhill (Respondent) is represented in this proceeding by
27 attorney John Dratz, Jr., whose address is 525 Spruce Street, Suite 109, San Diego, CA 92103-
28 5814.

3. On or about June 7, 1985, the Respiratory Care Board of California issued Respiratory Care Practitioner License No. 3980 to Allan H. Underhill, R.C.P. The License was in full force and effect at all times relevant to the charges brought in Accusation No. R-2071 and will expire on June 30, 2007, unless renewed.

JURISDICTION

4. Accusation No. R-2071 was filed before the Respiratory Care Board (Board), Department of Consumer Affairs, and is currently pending against Respondent. A true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent on April 18, 2007. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. R-2071 is attached as Exhibit A and incorporated herein by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, discussed with counsel, and fully understands the charges and allegations in Accusation No. R-2071. Respondent has also carefully read, discussed with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. R-2071.

9. Respondent agrees that his Respiratory Care Practitioner License is subject to discipline and he agrees to be bound by the Board 's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Respiratory Care Board. Respondent understands and agrees that counsel for Complainant and the staff of the Respiratory Care Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile or other copies of this Stipulated Settlement and Disciplinary Order, including the signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Allan H. Underhill, Respiratory Care Practitioner License No. 3980, shall be and hereby is Publicly Reprimanded by the Board pursuant to Business and Professions Code section 3769.3. This Public Reprimand, which is issued in connection with Respondent's care and treatment of patients L.S. and A.G. as set forth in Accusation No. R-2071, is as follows:

Between on or about May 13, 2005, and on or about May 24, 2005, you failed

1 to ensure that proper oxygen concentration was available to patient L.S., and you failed to
2 document the transfer of patient A.G. to 3S and the ventilator system check after
3 transferring the patient as described in Accusation No. R-2071.

4 **B. OBEY ALL LAWS**

5 Respondent shall obey all federal, state and local laws, and all rules governing the
6 practice of respiratory care in California.

7 **C. COST RECOVERY**

8 Respondent shall pay to the Board the reasonable costs of investigation and
9 prosecution of this case in the amount of \$3,326.00, payable within one year from the effective
10 date of this Decision.

11 **NON-COMPLIANCE WITH DISCIPLINARY ORDER**

12 In the event respondent fails to comply with each and every term and condition set
13 forth above, such failure shall be deemed a violation of Business and Professions Code section
14 3750(g), and the Board, after having giving notice and an opportunity to be heard, make take
15 additional disciplinary action against respondent.

16 **ACCEPTANCE**

17 I have carefully read the above Stipulated Settlement and Disciplinary Order and
18 have fully discussed it with my attorney, John Dratz Jr., Esq. I understand the stipulation and the
19 effect it will have on my Respiratory Care Practitioner License No. 3980. I enter into this
20 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
21 to be bound by the Decision and Order of the Respiratory Care Board.

22
23 DATED: May 22, 2007

24
25 Original signed by:
26 ALLAN H. UNDERHILL, R.C.P.
Respondent

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28 ///

1 I have read and fully discussed with Respondent Allan H. Underhill, R.C.P., the terms
2 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
3 Order. I approve its form and content.

4
5 DATED: May 24, 2007

6
7 Original signed by:
8 JOHN DRATZ JR., ESQ.
9 Attorney for Respondent

10 ENDORSEMENT

11 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
12 submitted for consideration by the Respiratory Care Board of the Department of Consumer
13 Affairs.

14
15 DATED: May 30, 2007

16 EDMUND G. BROWN JR., Attorney General
17 of the State of California

18 THOMAS S. LAZAR
19 Supervising Deputy Attorney General

20 Original signed by:
21 DAVID P. CHAN
22 Deputy Attorney General
23 Attorneys for Complainant
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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2071

ALLAN H. UNDERHILL, R.C.P.
6922 River Run Court
Mira Loma, CA 91752

Respiratory Care Practitioner License No. 3980

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Respiratory Care Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 7, 2007.

It is so ORDERED June 27, 2007.

Original signed by:

LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA